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Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Georgia*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, on her mission to Georgia from 15 to 19 February 2016. In the report, the mandate holder examines the gaps and challenges in fulfilling the State's obligation to eliminate violence against women, its causes and consequences and recommends measures for preventing and combating violence against women and ensuring the enjoyment of human rights by women in the country.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Georgia**

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** Circulated in the language of submission only.

I. Introduction

1. At the invitation of the Government of Georgia, the Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, visited Georgia from 15 to 19 February 2016.

2. The Special Rapporteur expresses her sincere gratitude to the Government for its full cooperation. During her visit, she met with the Deputy Minister of Labour, Health and Social Affairs; the Minister of Foreign Affairs; the Deputy Minister of Internal Affairs; the Deputy Minister of Economy and Sustainable Development; the Deputy Minister of Education and Science; the Deputy Minister of Corrections and Legal Assistance; the First Deputy State Minister for Reconciliation and Civic Equality; the First Deputy Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees; and the Minister of Justice and other ministry representatives. She also met with the Assistant to the Prime Minister on Human Rights and Gender Equality Issues, the First Deputy Chairman of the Parliament, the Chairman of the Gender Equality Council of the Parliament and with the Head of the Division of Human Rights Protection at the Public Prosecutor's Office.

3. She also met with the Public Defender and held consultations with civil society organizations, as well as with the President, members of the Supreme Court, judges from Tbilisi City Court and representatives of United Nations agencies.

4. The Special Rapporteur visited the Kakheti region, where she met with the governor of the region, inhabitants of Kabala, and civil society organizations and the Council of Women Elders in the village of Duisi, in Pankisi Gorge. She visited the Shida Kartli region and a settlement for internally displaced persons in the village of Skra, where she met with internally displaced women. She also visited a shelter in the city of Gori and would like to thank the women survivors of violence who shared their experiences with her throughout the visit.

5. The mandate holder expresses her gratitude to the Office of the United Nations High Commissioner for Human Rights, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Office of the United Nations High Commissioner for Refugees (UNHCR) and other United Nations agencies and other interlocutors involved in the organization of her visit.

6. She shared her preliminary findings with the Government of Georgia at the end of her official visit and looks forward to a fruitful dialogue with the Government and other stakeholders on the implementation of the action-oriented recommendations included in the present report.

II. General context

7. On 9 April 1991, Georgia declared its independence from the Soviet Union and was confronted with groups demanding independence for certain parts of the country, which resulted in conflicts and the declaration of independence of Abkhazia and the Tskhinvali region/South Ossetia.[1] As a consequence of conflicts occurring in 1990-1992, about 360,000 persons were displaced. By November 2004, 241,032 internally displaced persons

[1] E/CN.4/2006/71/Add.7.

had been registered.[2] In August 2008, another conflict erupted in Abkhazia and the Tskhinvali region/South Ossetia, creating a smaller wave of internally displaced persons.[3]

8. On 27 June 2014, Georgia signed association agreements with the European Union, with the aim of achieving political and economic integration and development, implementing the reform agenda and strengthening cooperation with the European Union.[4]

III. Manifestations of violence against women, its causes and consequences

9. During the visit, the Special Rapporteur learned that violence against women in Georgia is widespread and occurs both in the private and the public spheres, in urban and rural areas. The mandate holder found that, as a result of the persistence of entrenched patriarchal attitudes and gender stereotypes, gender-based violence is tolerated. She analyses some of its manifestations below. Although not exhaustive, the list illustrates the most prevalent manifestations of violence in the country that were discussed during her visit.

Violence against women, including domestic violence

10. Despite the efforts made by the Government, including the adoption in 2006 of a Law on Elimination of Domestic Violence, Protection and Support of Victims of Violence (Law on Domestic Violence) and the criminalization of domestic violence in 2012, the mandate holder notes that domestic violence, including physical, sexual and psychological abuse, is still considered a private matter and not an issue of public concern in most parts of the country. The incidence of domestic violence is still underreported, partly owing to the lack of public awareness about this societal problem, fear of retaliation and stigmatization, a lack of trust in law enforcement agencies and the low quality of existing services and protection mechanisms for victims of violence.[5]

11. A national study conducted in 2009 shows that 1 in 11 of the women interviewed had experienced physical or sexual abuse at the hands of her husband or intimate partner and 34.7 per cent of women had been injured as a result of physical or sexual violence.[6] Perpetrators of violence against women also include former intimate partners and family members. The main patterns of violence are physical, sexual, psychological and economic abuse, as well as coercion.[7]

12. During the first half of 2015, the Public Defender's Office registered 1,478 cases of domestic violence. In 93 per cent of the cases registered, the perpetrator was a man and in 87 per cent of cases the victims were women.[8] The Special Rapporteur regrets that the estimates for cases of domestic violence are based on the number of restraining orders issued, leaving invisible an undefined number of cases and not reflecting the real amplitude of this scourge. She is concerned that some cases are registered by the police under the category of "family conflict", which may also render cases of domestic violence invisible.

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[2] Ibid.

[3] A/HRC/10/13/Add.2.

[4] http://eeas.europa.eu/top_stories/2014/270614_association_agreement_en.htm.

[5] Background note provided by UN-Women.

[6] Marine Chitashvili and others, *National Research on Domestic Violence against Women in Georgia: Final Report* (Tbilisi, 2009), pp. 33 and 44.

[7] Ibid, p. 24.

[8] Background note provided by the Public Defender's Office. For example, in 2015, 2,726 restraining orders were issued.

13. According to the Public Defender's special report on violence against women, in 2014 and 2015 domestic violence most commonly involved both psychological and physical abuse. The national study carried out in 2009 indicates that the most common components of psychological abuse reported by the women interviewed were insults (14.3 per cent), belittling/humiliation (5.3 per cent), intimidation (5.1 per cent) and threats (3.8 per cent).[9] Of the women interviewed, 35.9 per cent reported exposure to acts intended to control their behaviour, with a higher prevalence among women who had not completed secondary education (60 per cent) than among those who had completed secondary, technical or higher education (35 per cent). Of those who reported having experienced such acts, 76.6 per cent did not have an income of their own.[10]

14. The Special Rapporteur notes that the factors most likely to increase the risk of intimate-partner violence include discriminatory gender stereotypes and patriarchal attitudes, women's low awareness of their rights, the occurrence of child and forced marriages and a lack of economic independence.[11] In addition, the consumption of alcohol, economic problems and unemployment also contribute to the occurrence of domestic violence.[12]

15. Most of the women interviewed perceive domestic violence as a private matter. In 2009, 78.3 per cent of the women interviewed in the national study — the majority from rural areas — stated that family problems should be discussed exclusively within the family, and 52.1 per cent stated that if a woman was mistreated by her partner, people outside the family should not intervene.[13] When it came to disclosing abuse, 27.8 per cent of the women interviewed did not tell anyone. Of the women who spoke about the abuse they experienced, 47.5 per cent told their parents, 31.2 per cent told their friends, 22.4 per cent told one of their siblings and 14.8 per cent told the husband's family.[14] Only a small number of the women reported the case to social services or official institutions.[15]

16. According to the 2010 reproductive health survey, verbal and/or physical abuse in marriage was, in general, more prevalent among women with a lower level of formal education and lowest socioeconomic status, as well as among Azeri women or those from other ethnic backgrounds.[16] Domestic violence is considered to be more prevalent in minority groups, including Azeri and Armenian communities, in particular in rural areas.[17]

Sexual violence, including rape

17. UN-Women, in its background note, indicated that in 2014, 80 cases of sexual violence had been registered, including 20 cases of rape. In 2015, those figures stood at 87 and 13, respectively. The Special Rapporteur regrets that no survey on the incidence of sexual violence has been conducted in the country and expresses concern that sexual crimes are underreported by victims, for reasons including fear of social stigma, including the importance placed on women's virginity and family honour; fear of the perpetrator; a lack

[9] Chitashvili and others, *National Research*, p. 36.
[10] Ibid.
[11] Cases of violence perpetrated by mothers-in-law were also reported.
[12] Chitashvili and others, *National Research*, pp. 36 and 51.
[13] Ibid., p. 37.
[14] Ibid., pp. 36 and 51.
[15] Ibid.
[16] Ed. John Ross. "Reproductive health survey Georgia: final report", (National Centre for Disease Control and Public Health, Ministry of Labour, Health and Social Affairs, National Statistics Office of Georgia, 2010), p. 312.
[17] Andrea Peinhopf, "Ethnic minority women in Georgia – facing a double burden?" (European Centre for Minority Issues, 2014).

of confidence in the law enforcement authorities; and a lack of specialized services. The Public Prosecutor's Office indicated that 32 persons were prosecuted in 2014 under article 137 of the Criminal Code relating to rape, while 21 people were prosecuted in 2015 under that article, including one for marital rape.

18. The mandate holder was informed that sexual harassment in the workplace is a frequent, but underreported, problem that stigmatizes women.[18] As early as 2006, the Committee on the Elimination of Discrimination against Women recommended that the State bring article 2 (4) of the Labour code, which deals with harassment but does not explicitly refer to sexual harassment or its various forms, into line with general recommendation No. 19 (1992) on violence against women.[19] She regrets that there is no data available on the prevalence of sexual harassment, or on other forms of harassment, such as harassment in the public space, which are not considered as violence.

Femicides or gender-related killings of women

19. In 2014, the Committee on the Elimination of Discrimination against Women expressed concern about the growing number of women killed by their intimate partners and recommended that measures should be taken to prevent such killings.[20] In 2015, as part of the follow-up to the recommendations, the Public Defender's Office published a special report on violence against women and domestic violence in Georgia,[21] in which it provided data on 34 women killed because of their gender in 2014. The Special Rapporteur was informed that in 2015 fewer femicides and gender-related killings had been registered.[22]

20. The Special Rapporteur noted that in many cases of killings committed by former or current intimate partners, the victims had reported acts of violence to the police but had not been provided with adequate and effective protection.

21. She wishes to commend the Public Defender on his work on monitoring femicide and to reiterate the call she made for all States to establish a "femicide watch" or "gender-related killing of women watch" and to collect, and release each year on the International Day for the Elimination of Violence against Women (25 November), data on the number of femicides. Most importantly each case should be carefully analysed to identify any failure of protection with a view to improving and developing further preventive measures.

Suicides among women victims of systematic violence

22. The Special Rapporteur was informed that an undefined number of suicides had occurred among women victims of systematic violence and young women, who allegedly committed suicide as a result of girl-child and forced marriage.[23]

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[18] Public Defender of Georgia, *Annual Report of the Public Defender of Georgia*, (2014).

[19] Background note provided by the Human Rights House Network. See article 42 of the Constitution and CEDAW/C/GEO/CO/3.

[20] CEDAW/C/GEO/CO/4-5.

[21] See www.ombudsman.ge/uploads/other/3/3389.pdf.

[22] Data from the Public Prosecutor's Office.

[23] Background note provided by Union Sapari. See also Public Defender of Georgia, *Violence against Women and Domestic Violence in Georgia: Special Report 2015* (Office of the Public Defender of Georgia, 2015), p. 40 and Public Defender of Georgia, "The Situation of Human Rights and Freedoms in Georgia: 2014", *Annual Report of the Public Defender of Georgia* (Office of the Public Defender of Georgia, 2014). It is estimated that 36 women committed suicide in 2014. See www.geostat.ge/cms/site_images/_files/english/health/Women%20and%20Men_2015.pdf.

Child and forced marriages

23. The Special Rapporteur is concerned about the high prevalence of cases of child and forced marriages throughout the country. She was informed that in 2015, 611 registered marriages involving at least one person under 18 years of age. In 578 of these cases, the girl was a minor.[24]

24. The mandate holder was informed that in 2015, 224 pupils aged 14 to 16 and 351 pupils aged 17 to 18 had dropped out of school because of child marriage. She is concerned about the high number of girls who drop out of school as a consequence of their marriage and highlights that these girls are more vulnerable to violence, including marital rape, because of the lack of education, reduced prospects and economic independence, which could prevent them from escaping situations of abuse. This practice also leads to early pregnancies and could be also linked with the rate of maternal mortality rate, estimated at 36 deaths per 100,000 live births in 2015.[25] The Public Defender reported on the suicide of a 16-year-old girl, possibly related to forced marriage.

25. The main reasons behind this practice, as explained during her visit, include: poor public awareness, including of the illegality of child marriage, a low level of education among girls and their parents, poverty and, in some cases, the fear that the girls may be abducted.[26] That particular problem was more prevalent in the 1990s, in particular in rural areas and among ethnic minorities, including the Azeri community, where the vast majority of girls are married before the age of 18, or even 16. Other challenges include gaps in the support services provided to victims and ineffective response mechanisms.[27]

26. Many interlocutors explained that the majority of child and forced marriages take place against the girls' will or because of parental pressure. Other factors that contribute to girl-child marriage include the control exerted by society over women's sexuality, social stigma, including stigma relating to the loss of virginity before marriage, and a range of other social and religious pressures. The main regions affected by this harmful practice are the Kakheti, Kvemo-Kartli, Adjara and Guria regions.[28]

27. The Special Rapporteur was informed that on 17 October 2014 forced marriage had been criminalized under article 150[1] of the Criminal Code, relating to forced marriage, including unregistered marriage, and that on 26 November 2015,[29] a regulation permitting the marriage of a child aged between 16 and 18 with her/his parents' consent had been repealed and replaced by a law authorizing the courts to approve such marriages.

28. She was informed that, in 2015, an investigation has been launched into 179 cases under article 140 of the Criminal Code, relating to sexual intercourse or any other act of a sexual nature with a person who has not attained the age of 16 years, 33 cases had been closed and criminal pr[illegible]edings had been instigated in 115 cases. At the time of her visit, investigations were or[illegible]g in 29 cases, and the charges had been changed in 1 case.[30] Under the provisions of article 143 (3) (d) of the Criminal Code, relating to the unlawful imprisonment of a minor, investigations had been launched into 20 cases, 5 of which involved unlawful imprisonment for the purpose of marriage. Of those, 17 had been closed,

[24] Data shared by the Public Defender's Office.

[25] http://data.worldbank.org/indicator/SH.STA.MMRT. In 2014, 1,500 births involving mothers under the age of 18 were recorded. See https://iwpr.net/global-voices/georgia-tightens-early-marriage.

[26] Abduction has decreased since its criminalization in 2004 under article 143 of the Criminal Code on deprivation of liberty. See Peinhopf, "Ethnic minority women", pp. 11 and 19.

[27] Public Defender of Georgia, "Special report: early age marriages — challenges and solutions" (2016).

[28] https://iwpr.net/global-voices/georgia-tightens-early-marriage.

[29] Ibid.

[30] Background note provided by the Public Defender's Office.

criminal proceedings had been launched in 2 cases, and qualification was changed in 1 case. Investigations under article 150[1] had been launched with regard to 6 cases. Five of the cases were closed, while in 1 case the investigation was ongoing.[31] Published data indicates a weak enforcement of legislation and a need for awareness-raising and educational campaigns to prevent and combat this harmful practice.

29. The mandate holder highlights the importance of involving religious leaders in the fight against the harmful practice of child and forced marriage. She welcomes the public announcement made after her visit stating that imams will no longer endorse child marriage in the Pankisi Gorge, and looks forward to the implementation of that decision.

Prenatal sex selection

30. The mandate holder expresses concern about the existence of prenatal sex selection, as indicated in several surveys revealing that families decided to abort the pregnancy if they were expecting a girl. Research conducted by non-governmental organizations, involving interviews with 1,600 women, confirmed that the number of selective abortions was high, particularly in regions inhabited by ethnic minorities.[32] She regrets that no unified data were available on the prevalence of this practice. According to a 2015 study conducted by the United Nations Population Fund,[33] the sex ratio at birth was close to 110 male births per 100 female births. Although it seems this figure has decreased, the practice has by no means been abandoned.

31. Families decide to undergo sex-selective abortions for a range of reasons, including the greater value placed on sons, pressure on couples to have a son and economic concerns, such as the assumption that boys are more likely to provide financial support to their parents.[34]

Virginity tests

32. Societal pressure is one of the reasons that women undertake virginity tests, to prove their virginity to their husbands and relatives. In 2013, according to the information released by the Levan Samkharauli State Forensic Expertise Bureau, for the price of 175 lari (approximately $78), women could access services to test their virginity.[35] The Special Rapporteur is concerned that a State entity is performing such tests without measures to safeguard women's rights to privacy and fully informed consent. She remains concerned that many such tests are performed in order to conform with stereotypes relating to women's sexual behaviour.

Surrogate motherhood

33. The Special Rapporteur was informed that various foreign agencies have advertised and offered surrogate motherhood contracts to young women, and that the whole procedure

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[31] Ibid.

[32] See the alternative report to the Committee on the Elimination of Discrimination against Women concerning women's rights and gender issues in Georgia, prepared by 13 organizations working in the field of women's rights and gender and 2 women's networks, 2014. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fGEO%2f17610&Lang=en.

[33] Christophe Guilmoto, "Gender-biased sex-selection in Georgia: context, evidence and implications", (United Nations Population Fund, 2015), p. 11.

[34] Ibid.

[35] See http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GEO/INT_CEDAW_NGO_GEO_17610_E.pdf.

of medically assisted procreation is not legally regulated. This lack of regulation could lead to violence and the exploitation of women entering such contracts, which are not based on clear legal provisions.

Specific groups at risk

34. Throughout her visit, the Special Rapporteur noted that specific groups of women, including women from ethnic minorities, rural women, internally displaced women, women refugees, lesbian, bisexual or transgender women and older women tend to suffer multiple forms of discrimination, making them more vulnerable to specific forms of violence.

35. Women belonging to ethnic minorities, including Azeri, Armenian, Ossetian, Kist, Yazidi and Roma women are not only discriminated against because of their gender; their minority status also increases their vulnerability to specific forms of violence. Gender stereotypes and gender-specific roles within the family and in society are still prevalent in those communities. Child marriage and, consequently, early pregnancy and/or a high dropout rate and domestic violence tend to be more prevalent in minority groups, particularly in rural areas.[36] In 2010, a reproductive health survey carried out in Georgia highlighted that Azeri women were almost twice as likely as ethnic Georgians to experience abuse in their marriages.[37]

36. The mandate holder was informed that rural women do not have the same access as urban women to information on their rights, services for victims of violence, means of economic empowerment or access to employment, which would allow them to leave abusive situations and to break the cycle of violence. Although she acknowledges the efforts of the Government, the Special Rapporteur is nevertheless concerned by reports that a language barrier exists for some minority ethnic groups and that, in some cases, women find it difficult to report cases of violence owing to a lack of interpretation.[38]

37. In the Pankisi Gorge, an area mainly inhabited by Kist and Chechen communities, it was estimated that between 60 and 80 per cent of young men joined the Salafist movement in 2011, exacerbating existing discriminatory practices towards women.[39] The mandate holder was informed that in the Pankisi Gorge, traditional Chechen/Kist rules based on the sharia law and Caucasian customs, were applied to settle cases involving family issues, although they are not aligned with Georgian legislation and the Convention on the Elimination of All Forms of Discrimination against Women.[40] The mandate holder recognizes the role of the Council of Women Elders in the village of Duisi, and highlights the importance of continuing to work with this council to apply both national legislation and accepted international standards in its work.

38. The Special Rapporteur was informed that, particularly in rural areas, many women do not own houses and live in their husband's, or his family's, house. Despite the introduction of an amendment to the Administrative Procedure Code of Georgia providing for the removal of the perpetrator from the place of residence of the victim, the mandate holder notes that this provision is not always applied, and that women have few opportunities to find a new place to live. This problem was also confirmed by the women interviewed, who stated that their chances of finding a new place to live on leaving a women's shelter were poor, due to reasons such as a lack of job opportunities and the low wages paid for low-skilled jobs.

[36] Peinhopf, "Ethnic minority women", p. 3.
[37] Ibid, p. 5. See also Ross, "Reproductive health survey Georgia: final report".
[38] Background note provided by the Public Defender's Office.
[39] Peinhopf, "Ethnic minority women", p. 24.
[40] Background note provided by UNHCR.

39. At the time of the visit, the number of internally displaced persons was estimated at about 274,000.[41] The Special Rapporteur notes that conflict has had a traumatic impact on displaced communities, in particular women, for example through the loss of family members or their homes and related human rights violations.[42]

40. While reports suggest that internally displaced women tend to be more affected by sexual and gender-based violence, the problem is mainly a hidden one among this group of women.[43] One of the reasons for this could be that, despite the efforts of the Government, sexual violence remains taboo in this section of the population and women do not come forward to talk about it.

41. The main issues highlighted by internally displaced women were the precarious conditions in which they live. Despite the Government's efforts to provide housing and a plot of land for cultivation to persons living in settlements, access to water, sanitation, education and health services, including contraceptives, seems to be limited. There are also concerns about the lack of job opportunities and the low level of financial support provided (45 lari, approximately $20).[44] The mandate holder is concerned that the living conditions of displaced women, in particular older women, who represent 60 per cent of the older displaced adults,[45] place them in a vulnerable and marginalized position. Generally, older internally displaced women live in poor economic conditions and are concerned about the cost of medicines and the small pensions they receive.[46]

42. The mandate holder was informed that lesbian, gay, bisexual and transgender persons suffer hostility, discrimination and violence because of their sexual orientation or gender identity. The Special Rapporteur was informed that the perpetrators of the violence that occurred during a gay pride event in 2013, during which 17 people were injured as a result of attacks allegedly carried out by thousands of people,[47] have yet to be brought to justice.[48] In 2014, the Human Rights Committee expressed concern about discrimination and social stigma, hate speech and acts of violence directed against lesbian, gay, bisexual and transgender persons, and recommended that the State should take effective measures to provide effective protection to this specific group and to ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity.[49]

[41] Taking into consideration the number of internally displaced persons with whom UNHCR works.
[42] Background note provided by Association Amagdari.
[43] Background note provided by UNHCR.
[44] UNHCR estimated that 200 lari (approximately $89) are necessary to live.
[45] Courtland Robinson and others, *Aging in Displacement: Assessing Health Status of Displaced Older Adults in the Republic of Georgia*, (John Hopkins Bloomberg School of Public Health, 2012), p. 1.
[46] Ibid., p. 3.
[47] See www.amnesty.org/en/latest/news/2013/05/georgia-homophobic-violence-mars-tbilisi-pride-event/.
[48] Background note provided by the Public Defender's Office.
[49] CCPR/C/GEO/CO/4.

IV. State responses and measures to address violence against women

A. Incorporating the international and regional framework on violence against women into national law

43. Georgia is a party to the main international human rights instruments, including the International Covenant on Civil and Political Rights and its optional protocols; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child and its first two optional protocols; and the Convention on the Rights of Persons with Disabilities. The State is a signatory to the Rome Statute of the International Criminal Court, and a party to the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons.

44. The Constitution is the supreme law of Georgia and recognizes the supremacy of international treaties over domestic law, unless treaty provisions conflict with those of the Constitution. Despite this important constitutional provision, there is a lack of visibility and direct application of the Convention on the Elimination of All Forms of Discrimination against Women, as noted by the Committee on the Elimination of Discrimination against Women in its concluding observations on the combined fourth and fifth periodic reports of Georgia.[50] This was confirmed in discussions on this issue involving the Special Rapporteur, the chair of the Supreme Court and judges from Tbilisi City Court, who also stressed the importance of providing specific legal training to judges, prosecutors and lawyers on directly applying the provisions of the Convention and interpreting national legal provisions in the light of the Committee's jurisprudence.

45. In its concluding observations, the Committee also expressed concern regarding: the growing number of women who were murdered by their husbands or partners and of women who were victims of other forms of violence, including psychological, physical, economic and sexual violence; the low rate of reporting of cases of sexual and domestic violence against women owing to stigma and fear of the perpetrator, as well as the lack of trust in law enforcement agencies; the lack of State-funded crisis centres and shelters for women who were victims of domestic violence; and the fact that women were sometimes subjected to virginity tests in violation of their right to privacy.[51] The Committee identified violence against women as an issue for follow-up and requested a report on the implementation of those recommendations within two years.

46. The Human Rights Committee expressed concern about the underreporting of domestic violence owing to gender stereotypes, a lack of due diligence by law enforcement officers in investigating those cases and insufficient protection measures for victims, including inadequate enforcement of restraining and protective orders,[52] as well as a limited number of State-run shelters and support services.[53]

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[50] CEDAW/C/GEO/CO/4-5.

[51] Ibid.

[52] A protective order is issued by a court (judge) of first instance as part of administrative proceedings. It determines the temporary measures to protect a victim and is valid for up to six months. A restraining order defines the temporary measures to protect a victim of domestic violence. It is issued

47. In 2015, the Committee on the Elimination of Discrimination against Women adopted views under its Optional Protocol on communication No. 24/2009 (*X. and Y. v. Georgia*, in which the victim and her daughter had endured physical and sexual violence for several years. Despite several complaints lodged with the police, no criminal charges were brought against the husband. In this case, the Committee recognized that the State had failed to act with due diligence, and had failed to investigate and punish human rights violations, which constituted a violation of article 2 (b), (c), (d), (e) and (f) in conjunction with articles 1 and 5 (a) of the Convention and the Committee's general recommendation No. 19 and recommended that the State provide adequate financial compensation to the victims. It also recommended that the State provide adequate support to victims of domestic violence, including shelter and psychological support, implement awareness-raising campaigns, ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and introduce mandatory training for judges, lawyers and prosecutors. At the time of the visit, no compensation had been provided to the victims.

48. The mandate holder also notes that there is no national machinery to implement the treaty bodies' recommendations.

49. Following its universal periodic review in 2015, the Government of Georgia accepted a number of recommendations related to gender equality and violence against women.[54]

50. At the regional level, Georgia is a member of the Council of Europe and a participating State in the Organization for Security and Cooperation in Europe. It ratified the European Convention on Human Rights on 20 May 1999 and is subject to the jurisdiction of the European Court of Human Rights. Georgia signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) on 19 June 2014. The Special Rapporteur welcomes the announcement made during her visit that the Government intends to ratify the Convention in the spring of 2016, but she regrets that it had not yet been ratified at the time of drafting.

B. Constitutional, legislative and policy framework

51. The 1995 Constitution contains provisions on equality, including: article 14, which stipulates equality before the law, regardless of sex; article 36, which recognizes equality in marriage; and article 38, which establishes equality in social, economic, cultural and political life.

52. The Special Rapporteur recognizes that, during the past 10 years, Georgia has made several significant improvements to its legislative framework on gender equality and domestic violence. The measures have included: the adoption of the 2006 Law on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence; the 2010 Law on Gender Equality; the 2014 Act on the Elimination of all Forms of Discrimination, which includes the prohibition of discrimination based on sex, sexual orientation and gender identity; the 2006 Law on Combating Human Trafficking; the 2014 Law on Internally Displaced Persons — Persecuted from the Occupied Territories of Georgia; and the amendments made to the Criminal Code in 2012 to include new provisions defining the scope and categories of domestic violence.

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by a police officer and must be approved by the court within 24 hours. Restraining orders are valid for up to one month (see articles 10 and 12 of the Law on Domestic Violence).

[53] CCPR/C/GEO/CO/4.

[54] A/HRC/31/15.

53. The Government has adopted a number of policies and strategies, including the 2014-2015 National Action Plan for the Implementation of the Human Rights Strategy, with the specific objective of achieving gender equality through the empowerment of women and combating domestic violence, and the 2015 National Action Plan for Combating Domestic Violence and Implementing Measures for the Protection of Victims of Domestic Violence. The Special Rapporteur welcomes the work on the subsequent draft Action Plan for 2016-2017, which will cover domestic violence and sexual violence.[55] The Government has approved the National Action Plan on Gender Equality for 2014-2016 and the National Human Rights Strategy. The National Action Plan on Combating Trafficking in Persons for 2015-2016 has also been adopted.

54. The Special Rapporteur welcomes the adoption of the 2012-2015 national action plan for the implementation of Security Council resolution 1325 (2000) on women, peace and security and the establishment of an inter-agency coordination group, led by the Assistant to the Prime Minister on Human Rights and Gender Equality Issues. She looks forward to the adoption of the subsequent plan for 2016-2017, which should involve all responsible agencies, in particular those working in local communities, as recommended by the Public Defender's Office.[56]

55. The 2014-2016 Gender Action Plan, prepared by the Ministry of Internal Affairs, was adopted with the objective of improving gender equality in all aspects of political, economic and social life. The mandate holder was informed that the role of women has been expanded within the police force and 500 female police officers have been recruited.

56. The mandate holder was also informed that the standard operating procedures on prevention and response to sexual and gender-based violence in the Tbilisi, Pankisi, Gori, Kutaisi, Zugdidi and Gali regions, designed to maximize the efficiency of coordinated action taken by governmental and non-governmental bodies, have been developed, under the auspices of UNHCR.[57]

57. The mandate holder welcomes the 2014 amendment to the Law on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence, which covers physical, psychological, economic and sexual violence or coercion (art. 3). Nevertheless, she is concerned about the scope of the law, as it does not cover violence against women outside the family and provides a narrow definition of a "victim" in article 4 (f), namely a person who has suffered domestic violence. She is also concerned about how the "status of victim" is determined by law enforcement and judicial bodies, and the existence of the Group for Determining Domestic Violence Victim Status and ensuring that a relevant response is provided. These issues impede the ability of women survivors of violence to obtain immediate protection through restraining or protective orders and access to a State-run shelter, as victims without the status of victim are not permitted to stay in shelters.

58. While she welcomes the adoption of the Law on Gender Equality, which provides a definition of harassment, the Special Rapporteur is concerned that the law does not cover sexual harassment in education establishments or sexual harassment in the workplace.[58]

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[55] See http://georgia.unwomen.org/en/news/stories/2016/01/interagency-council-finalizes-draft-national-action-plan-to-combat-violence-against-women.

[56] See www.ombudsman.ge/uploads/other/3/3566.pdf.

[57] Background note provided by UNHCR.

[58] Public Defender of Georgia, "The situation of human rights and freedoms in Georgia: 2014", *Annual Report of the Public Defender of Georgia* (Office of the Public Defender of Georgia, 2014), p. 419. See also World Bank Group, *Women, Business and the Law 2016: Getting to Equal* (World Bank Publications, 2015).

59. Article 150[1] of the Criminal Code criminalizes forced marriage, including unregistered marriage. Article 140 of the Criminal Code criminalizes sexual intercourse or other acts of a sexual character committed between an adult and a child under 16 years of age. The mandate holder was informed that article 143 of the Criminal Code on illegal imprisonment can be used to prosecute kidnappers. While acknowledging that the Government has repealed the regulation permitting the marriage of a child aged between 16 and 18 with her or his parents' consent and that the courts are now solely responsible for authorizing such marriages in exceptional cases, the Special Rapporteur expresses concern that numerous child and forced marriages are not officially registered, and that the Government's lack of specific data on the number of such marriages constitutes an obstacle to the effective implementation of existing legislation.

60. The Special Rapporteur welcomes the adoption of Order No. 01-74/6 of 2014, which regulates the termination of pregnancy and prohibits, in paragraph 14 of the first addendum, the termination of pregnancy on the grounds of sex selection. While acknowledging this positive step, she regrets that no official statistics on sex-selective abortions are collected and notes with interest the will of the Government to develop a regulation on this issue.

61. The Special Rapporteur welcomes the above-mentioned legislative steps taken by the Government, but remains concerned about the inconsistent and fragmented legislative framework on violence against women, which is not yet fully in line with the Convention on the Elimination of All Forms of Discrimination against Women and the Istanbul Convention. She also expresses concern about the poor implementation of those international instruments owing to, inter alia, insufficient awareness of the content of the legal provisions, a lack of effective enforcement mechanisms, a lack of sufficient human and financial resources and the persistence of gender stereotypes and patriarchal attitudes.

62. During her visit, the mandate holder was informed that the Ministry of Justice was taking the lead in revising 17 laws,[59] with a view to harmonizing domestic legislation with the Istanbul Convention. Some of the important legislative amendments proposed include expanding the scope of the Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence to cover measures on combating violence against women and on domestic violence. The Ministry has also informed the mandate holder that the definitions of "violence against women", "victim", "family member" and "perpetrator" will be amended. With regard to the review of the Criminal Code, the Ministry has indicated that the definition of rape will be amended to comply with the Istanbul Convention and the scope of "aggravating circumstances" will be extended to include crimes against spouses, former spouses or partners, and persons in a vulnerable position.

63. Other amendments proposed include provisions to ensure that court mediation services will no longer handle cases relating to violence against women or domestic violence. Interlocutors confirmed that mediation is still used in cases of domestic violence. Under the proposed amendment to the Administrative Procedure Code of Georgia, a restraining order would be valid as soon as it is issued by a police officer and would not require a court to validate it.

[59] The laws revised are the following: the Criminal Code; the Civil Procedure Law; the Law on Domestic Violence; the Administrative Procedure Code; the Law on Lawyers; the Law on Local Self-Government; the Law on Arms; the Law on Legal Aid; the Law on the Rights of the Patients; Code on Imprisonment; the Law on Police; the Law on the Medical Practice; the Law on Public Service; Labour Code; the Law on the Legal Status of Aliens and Stateless Persons; the Law on Higher Education; the Law on Secondary Education.

64. Under the proposed amendments to the Law on Medical Practice, the Law on Patient Rights, the Law on Higher Education, the Law on General Education and the Law on Lawyers, confidentiality requirements would not bind doctors, medical personnel, teachers or lawyers if they reported to the relevant government agencies cases of violence against women or domestic violence. Under the Law of Georgia on the Legal Status of Aliens and Stateless Persons, an amendment is being proposed that would make it possible for a foreign woman who is the victim of violence to receive a temporary residence permit.

65. The Special Rapporteur welcomes the Government's recognition of shortcomings in the current legal framework on violence against women and looks forward to the speedy adoption of the above-mentioned amendments.

C. Institutional framework: national machinery and independent institutions

66. At the institutional level, the Permanent Inter-Agency Coordination Council for the Prevention of Domestic Violence was established in 2008 and the Gender Equality Council within the Parliament was created in Parliament in 2009. The main task of the Gender Equality Council is to coordinate the work on gender issues and to monitor the implementation of the national action plan on women, peace and security.

67. The mandate holder was informed of the appointment of advisers on gender equality in municipalities and self-governing cities to support the implementation of the Law on Gender Equality, as well as the establishment of the post of Assistant to the Prime Minister on Human Rights and Gender Equality Issues in 2013. It was reported that only a few municipalities had gender councils and gender advisers and that the Gender Equality Council of the Parliament had initiated amendments to the Law on Gender Equality in order to establish such institutional mechanisms at the local level.

68. The Special Rapporteur welcomes the commitment of the Government to further advance the agenda on gender equality and women's empowerment in Georgia, but reiterates the concerns expressed by the Committee on the Elimination of Discrimination against Women about the poor implementation of the Law on Gender Equality and regrets that the Gender Equality Council lacks adequate substantive, technical and administrative support and resources.[60] She also reiterates the Committee's concerns on the post of the Assistant to the Prime Minister on Human Rights and Gender Equality Issues created in the Office of the Prime Minister in 2013, and is concerned about the absence of a comprehensive mechanism in the executive branch for the coordination, implementation and monitoring of gender equality policies and the coordination of policies and measures to prevent and combat violence against women.[61]

69. In 2006 the Interagency Coordination Council on Combating Trafficking in Persons was established to take measures to combat human trafficking. The council approved the Strategy for Rehabilitation and Reintegration into Society of Victims of Trafficking in Persons. A special anti-trafficking unit under the Ministry of Internal Affairs was established in Adjara.

70. The Public Defender's Office, which maintains an "A" status accreditation under the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), has established a department for gender equality. The Office has played an important role in addressing violence against women in Georgia and

[60] CEDAW/C/GEO/CO/4-5.
[61] Ibid.

has published a special report on violence against women and domestic violence, containing numerous recommendations drawn from the findings in that report. The Special Rapporteur was informed that inadequate resources prevent the Office from fulfilling its mandate.

V. Impact of discrimination against women on violence against women

71. During her visit, the Special Rapporteur learned about the patterns of discrimination and inequality that impeded the full enjoyment of women's rights. Despite the adoption of the 2010 Law on Gender Equality and the 2014 Act on the Elimination of All Forms of Discrimination, as well as other relevant pieces of legislation, major obstacles to de facto equality remain, owing to a number of factors, including the low political participation of women in public and private life and the pervasive nature of discriminatory gender stereotypes.

A. Low political participation of women in political and public life

72. The Special Rapporteur remains concerned about the low representation of women in the legislative and executive branches,[62] as already expressed by the Committee on the Elimination of Discrimination against Women. There are currently only 17 women in Parliament (11.3 per cent).[63] In February 2016, Georgia was ranked 147th in the world with regard to women's participation in parliament.[64] In 2006, at the municipal level, only 195 of 1,750 elected counsellors were women.[65]

73. Despite the amendments introduced to the electoral code and the organizational act on citizen's political unions relating to financial incentives for political parties nominating women candidates for parliamentary elections, women's participation in political and public life remains low. In this regard, the Special Rapporteur looks forward to the adoption of the law on mandatory quotas that specifies a minimum participation of 30 per cent of women in Parliament. However, she remains concerned that there is insufficient public and political acceptance of such temporary special measures for accelerating the advancement of women.

74. Women hold only 3 of the 19 ministerial posts in the Government. At the municipal level, only 10 per cent of those elected to self-government bodies were women. In municipalities mainly inhabited by ethnic minorities, women's participation was even lower. For example, of the 148 Members of Parliament appointed in Akhalkalaki, Ninotsminda, Gardabani, Mameuli and Tsalka Sakrebulos, only 4 were women.[66]

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[62] CEDAW/C/GEO/CO/4-5.

[63] See www.ipu.org/wmn-e/classif.htm.

[64] Ibid.

[65] See http://www.unwomen.org/~/media/headquarters/attachments/sections/csw/59/national_reviews/georgia_review_beijing20.ashx.

[66] See the written contribution to the Office of the United Nations High Commissioner for Human Rights, in relation to Human Rights Council resolution 27/24, "Equal participation in political and public affairs", submitted by the Public Defender (Ombudsman) of Georgia. 2FGeorgiaNHRI.doc&usg=AFQjCNHVortMZL-2kpi9PibPLVa0esgk-A&bvm=bv.119745492,d.bGg.

B. Discriminatory gender stereotypes

75. Despite the efforts made by the Government, United Nations agencies and civil society actors, particularly with regard to raising public awareness, gender stereotypes and patriarchal attitudes remain deeply entrenched and prevalent in society, infringing on women's enjoyment of the right to equality and perpetuating violence against women. The mandate holder observed that, especially in rural areas, much remains to be done to change patriarchal norms and public attitudes towards gender roles.[67]

76. The Special Rapporteur was informed that growing conservatism in the media and political debates, fuelled in some cases by religious institutions, has contributed to reinforcing gender stereotypes and patriarchal beliefs. According to a 2014 survey on men and gender relations in Georgia, 89 per cent of respondents agreed that a woman's main responsibility was to take care of her family.[68]

77. The Special Rapporteur is also concerned about the dissemination by the media of sexist remarks and widespread gender stereotypes,[69] which can have a negative impact on women's opportunities and social status, their professional careers and their participation in political and public life on an equal basis with men.

VI. Gaps and challenges in fulfilling the State's obligations to eliminate violence against women

A. Prevention

1. Data

78. While noting that article 6 of the Law on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence provides for the creation of mechanisms for the prevention of domestic violence, which will be responsible for maintaining relevant statistics (art. 6 (c)), taking preventive measures against persons at risk of perpetrating acts of domestic violence (art. 6. (d)), implementing awareness-raising campaigns (para. (e)) and taking measures to protect and support victims (para. (g)). However, the mandate holder is concerned about the absence of centralized statistical data on domestic violence and on gender-based violence in general.

79. The Public Defender's Office informed the mandate holder that, in general, the acquisition of statistical data from governmental entities was a complex matter and that such data were not adequately analysed and used to inform policies.[70] During the visit, the Government acknowledged that the collection of data remained a challenge.

2. Education

80. While noting the efforts of the Government to deliver training workshops to law enforcement officers, prosecutors and judges, the mandate holder points out that they are not yet familiar with the international standards to combat gender-based violence,

[67] Background note provided by UN-Women.

[68] Institute of Social Studies and Analysis, "Men and gender relations in Georgia", published within the framework of the United Nations Joint Programme to Enhance Gender Equality in Georgia, (2014), p. 12.

[69] Public Defender of Georgia, "The situation of human rights and freedoms in Georgia: 2014", p. 412.

[70] Ibid., p. 425.

particularly the Convention on the Elimination of All Forms of Discrimination against Women, its general recommendation No. 19 and the Declaration on the Elimination of Violence against Women, and therefore do not apply them in cases of violence against women.

81. The mandate holder welcomes the fact that three universities have introduced gender studies into the curriculum and welcomes the information provided by the Ministry of Education on plans to include gender equality in the curricula, but expresses concern that education on the Convention on the Elimination of All Forms of Discrimination against Women, the Committee's general recommendations and jurisprudence under its Optional Protocol on gender-based violence, is not yet part of the school curricula.

3. Training of professionals

82. Under the provisions of article 8 of the Law on Domestic Violence, social services are responsible for providing assistance and support to victims of domestic violence (art. 8 (b)) and monitoring the execution of protective and restraining orders (art. 8 (e)). While acknowledging the efforts of the Government, the Special Rapporteur notes that the 250 social workers currently employed by the Government and the limited resources allocated to their work do not seem to be enough to ensure effective implementation of the law. The Special Rapporteur also highlights the important role of teachers, doctors and social workers in identifying cases of violence and the importance for them to be adequately trained.

B. Protection

83. The Special Rapporteur was informed that the Government operates a free, 24-hour hotline staffed by lawyers for women victims of violence.[71] The hotline provides the following services: crisis aid, legal advice, psychological aid, information and referrals to shelters or crisis centres. The services are available in Georgian and Russian.[72] The mandate holder recognizes the State's efforts, but is concerned that the hotline is not yet available in all the languages spoken by ethnic minorities, thus preventing them from reporting cases of violence and seeking adequate protection.

84. A woman victim of violence who has not, or not yet, been granted the "status of victim" can receive support in crisis centres, which are run by non-governmental organizations. The mandate holder welcomes the announcement that the first State-run crisis centre for women victims of violence will open in September 2016.

85. At the time of the visit, there were three State-run shelters in Georgia (in Tbilisi, Kutaisi and Gori), operated by the State Fund for the Protection and Assistance of (Statutory) Victims of Human Trafficking, for victims of domestic violence who have officially been assigned the status of victim. The mandate holder highlights that women living in rural areas who escape from perpetrators of violence have to leave their villages and communities to live in shelters, mainly located in urban areas.

86. She welcomes the announcement that a fourth State-run shelter for victims of domestic violence has opened in the Kakheti region,[73] but stresses that the Council of

[71] Women Against Violence Europe, "Wave report 2014: specialized women's support services and new tools for combating gender-based violence in Europe", (Wave Network, 2015), p. 25.

[72] Public Defender of Georgia, "The situation of human rights and freedoms in Georgia: 2014", p. 433.

[73] The fourth shelter opened in early April in the Kakheti region. See http://georgia.unwomen.org/en/news/stories/2016/04/more-shelters-for-victims-of-domestic-violence-in-georgia.

Europe Task Force to Combat Violence against Women, including Domestic Violence estimates that there is a need for over 437 places for women throughout the country,[74] with a particular need in rural areas. She recognizes the work done by civil society organizations in providing protection services to women victims of violence and highlights how important it is for the Government to cooperate with and provide adequate financial or other support to those organizations.

87. The mandate holder was informed that the maximum duration of a woman's stay in a shelter is three months, subject to extension after an assessment of the personal situation of the beneficiary. Despite the Government's indications that the contract can be extended multiple times, it was reported to the Special Rapporteur that it was done only in rare cases.

88. She is concerned that, to date, the status of victim recognizes only victims of trafficking and victims of domestic violence as defined under the Law on Domestic Violence and that other women victims of violence remain beyond the scope of the law and protection, unable to seek refuge in State-run shelters. The mandate holder was informed that, in some cases, official recognition of the status of victim takes time, thus leaving the victim without effective protection.

89. The mandate holder was informed that, in numerous cases, victims of domestic violence have to report cases of violence several times to the police before a restraining order is issued.[75] For example, she was informed that in 2013, the police were called to more than 5,447 incidents of domestic "conflict", but that only 212 restraining orders were issued.[76] It was also reported that victims are not well informed by police officers, who sometimes do not explain that it is possible to request a restraining order.

90. The Special Rapporteur welcomes the data shared by the Government reflecting the increasing number of restraining orders issued over the past two years. In 2014, 945 restraining orders were issued, while in 2015, 2,607 such orders were issued. However, she highlights that these orders are valid for a maximum of one month and she remains concerned about the data on the issuance of protective orders (92 in 2014 and 173 in 2015), which provide longer-term protection to victims and are valid for up to six months. This major difference has yet to be studied or properly addressed, since the underuse of longer-term protective orders raises questions about their effectiveness and the relationship between restraining and protective orders (see CEDAW/C/GEO/CO/4-5).

91. The Special Rapporteur was informed that police officers have benefited from training workshops and are now more proactive in issuing restraining orders. She welcomes the fact that more women have joined the police force, because they can play an important role in identifying victims and providing them with information. She also welcomes the fact that, generally speaking, police patrols sent to assess cases of domestic violence are composed of one man and one woman.[77]

92. Nevertheless, the mandate holder expresses serious concerns about the persistence of stereotypes among police officers and the fact that some police officers in rural areas still issue "warning letters", devoid of any legal value, through which perpetrators agree not to exercise violence against their partner. She stresses the fact that such letters do not provide protection for victims and do not permit a person to be held to account for acts of violence committed in the past.[78]

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[74] See http://www.feminizmi.org/wp-content/uploads/2015/04/country-report-georgia.pdf.
[75] Public Defender of Georgia, "The situation of human rights and freedoms in Georgia: 2014", p. 431.
[76] Background note provided by Union Sapari.
[77] See www.state.gov/documents/organization/236738.pdf.
[78] Public Defender of Georgia, "The situation of human rights and freedoms in Georgia: 2014", p. 427.

93. The Special Rapporteur is also concerned that some cases of violence are still registered by the police as "family conflict" cases and no assessment is carried out to ascertain the danger to the life of the victim. She was informed that in numerous cases the police do not provide adequate assistance, or information on shelters or restraining orders, to victims of domestic violence and that in many cases, investigations are halted when a victim withdraws her statement. Reports suggest that the police do not adequately document cases involving domestic violence and point to weaknesses with regard to the collection of evidence and the drafting of police reports, which can hinder the prosecution of perpetrators of violence.[79] The mandate holder was informed that despite the new obligation for the police to immediately notify the victim of domestic violence when the convicted perpetrator leaves prison, the implementation of this requirement has been poor. All these issues may expose the victim to more violent, or even fatal, attacks by the perpetrator.

C. Prosecution

94. The Special Rapporteur was informed about difficulties in initiating criminal proceedings without the victim's complaint, as there is no ex officio prosecution of perpetrators of domestic violence. Interlocutors also reported that prosecutors do not conduct timely and effective investigations into cases of domestic violence. The number of prosecutions is low, in comparison with the number of cases reported.

95. As an example, the mandate holder noted that, in cases of femicide, various articles of the Criminal Code may be applied: article 108, on murder; article 109, on murder under aggravating circumstances; article 111, on intentional murder in a state of sudden, strong emotional excitement; article 117, on the intentional infliction of a grave injury leading to death; and article 115 on incitement to suicide.[80] An analysis of cases of femicide revealed shortcomings on the part of prosecutors and the judiciary in identifying crimes as femicide, classifying them, defining any mitigating or aggravating circumstances and imposing sanctions on perpetrators.[81] The study revealed that no gender motivation was identified in any of the 12 cases analysed.[82]

96. The Special Rapporteur also recalls the case *X. and Y. v. Georgia*, which shows patterns that are observed in some other ongoing cases at the national level, in particular the lack of a proper and timely investigation into cases of abuse, the view that violence against women is a private matter and the refusal by the Public Prosecutor's Office to bring charges against the victim's husband.

97. The 2014 Law on Domestic Violence prescribed the right for a victim of domestic violence to claim compensation in cases where the damage incurred to the victim is not compensated from other sources envisaged under domestic legislation. The mandate holder was informed that the Government had yet to decide how to calculate the amount of compensation to be granted to a victim of domestic violence and had yet to establish a procedure for granting such compensation.

[79] Ibid.
[80] See the study on femicide conducted by the Georgian Young Lawyers Association.
[81] Ibid.
[82] Ibid.

VII. Conclusions and recommendations

98. **The Special Rapporteur highlights that, throughout the visit, the Government demonstrated its willingness to combat discrimination against women and address violence against women, including by amending different laws in order to improve the legal framework and to strengthen implementation. With respect to the observed gaps in the fulfilment by the State of its obligations, including the obligation to act with due diligence to prevent violence against women, to protect and provide remedies to women who have been subjected to violence and to prosecute and punish perpetrators, the Special Rapporteur would like to address the recommendations listed below to the Government of Georgia.**

Law and policy reforms

99. **The Special Rapporteur recommends that the Government:**

(a) **Improve the legal and policy framework on violence against women, in order to establish a holistic and comprehensive national framework to prevent violence against women, and speedily adopt the envisaged amendments to bring national legislation on violence against women and gender equality into line with the Convention on the Elimination of All Forms of Discrimination against Women and the Istanbul Convention;**

(b) **Accelerate the ratification of the Istanbul Convention;**

(c) **Provide mandatory training to law enforcement officers and members of the judiciary, including judges and prosecutors, on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the general recommendations of the Committee on the Elimination of Discrimination against Women and the Committee's jurisprudence on violence against women, as well as training on the Istanbul Convention and national legislation, with a view to training those officials to apply the provisions of the Convention directly and to interpret national legal provisions in the light of the Committee's jurisprudence;**

(d) **Support the judiciary in its efforts to create a compendium on international and national jurisprudence on violence against women;**

(e) **Establish a national mechanism for implementing treaty body decisions, including the recommendations put forward by the Committee on the Elimination of Discrimination against Women in *X. and Y. v. Georgia* on the allocation of adequate financial compensation to the victims;**

(f) **Ensure that legislation is applied by all authorities that deal with family issues, including the Council of Men Elders and the Council of Women Elders, who should interpret religious norms in line with international human rights law and standards;**

(g) **Revise the Law on the Elimination of Domestic Violence, Protection of and Assistance to Victims of Domestic Violence, and expand its scope to cover violence against women;**

(h) **Remove the restrictive legal and administrative procedures for determining the status of victims of domestic violence, in order to ensure that victims are immediately able to benefit from all protective measures (restraining and protective orders) and services (shelters);**

(i) Amend the definition of rape in the Criminal Code to ensure compliance with the Convention on the Elimination of All Forms of Discrimination against Women and the Istanbul Convention;

(j) Consider including a provision on battered women syndrome as a mitigating circumstance in cases where a wife exposed to long-term domestic violence kills her spouse;

(k) Amend the current provision on mediation to ensure that there is no mandatory mediation in cases of violence against women;

(l) Amend the Law on Medical Practice, the Law on Patient Rights, the Law on Higher Education, the Law on General Education and the Law on Lawyers, in order to prevent doctors, medical personnel, teachers and lawyers from being bound by confidentiality requirements with regard to reporting to the relevant governmental agencies cases of violence against women or domestic violence, and provide the above-mentioned professionals with training on the prevention and detection on such violence;

(m) Amend the Law of Georgia on the Legal Status of Aliens and Stateless Persons, in order to allow a foreign woman who has been the victim of violence to receive a temporary residence permit;

(n) Analyse the effectiveness of restraining and protective orders, including the reasons for the significant differences between the high number of restraining orders and the low number of protective orders issued, and ensure that restraining orders are valid from the moment they are issued by a police officer;

(o) Draft a law on medically assisted procreation, including surrogacy, in order to establish the legal grounds for such procedures and to protect women and children's rights in cases relating to surrogacy;

(p) Introduce legal requirements to protect women's rights to privacy and fully informed consent with regard to virginity tests;

(q) Introduce legislation to prohibit and punish sexual harassment in education establishments and in the workplace;

(r) Introduce temporary special measures, in line with article 4 (1) of the Convention on the Elimination of All Forms of Discrimination against Women, or introduce mandatory quotas for women in Parliament;

(s) Elaborate and adopt the new National Action Plan for Combating Domestic Violence and Implementing Measures for the Protection of Victims of Domestic Violence;

(t) Draft and adopt a new national action plan on women, peace and security, with the participation of all relevant agencies, in particular those working in local communities;

(u) Strengthen efforts to combat discriminatory gender stereotypes in society, including in the media;

(v) Introduce education on gender equality, violence against women and age-appropriate sexual and reproductive health and rights into the curriculum at all levels of education;

(w) Conduct awareness-raising campaigns and programmes, including in cooperation with the Public Defender and civil society, to increase awareness and understanding among the general public and professionals of different forms of

violence against women, their causes and consequences, with the aim of preventing such violence.

Investigation, prosecution support services and protective measures

100. **The Special Rapporteur recommends that the Government:**

(a) **Continue to increase the number of women police officers and employ male and female police officers when dealing with cases of domestic violence;**

(b) **Fully eliminate the issuance of warning letters by police officers in cases of domestic violence;**

(c) **Ensure that an assessment of the danger to the life of the victim, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities at all stages of the investigation, in order to mitigate risk and provide protection and support to victims;**

(d) **Increase the number of State-run shelters and crisis centres, their availability and the services they provide, in particular in rural areas, as well as the number of social workers in them and the level of financial support the shelters or centres receive;**

(e) **Provide training to social workers, teachers and doctors on identifying cases of domestic violence;**

(f) **Ensure that support services are available to victims of violence in all ethnic minority languages;**

(g) **Increase the support provided to social workers working on implementation of assistance and support measures for victims of domestic violence;**

(h) **Determine the amount of compensation to be granted to victims of domestic violence, as well as the procedure for granting such compensation.**

National mechanisms

101. **The Special Rapporteur recommends that the Government:**

(a) **Strengthen the Gender Equality Council by providing it with adequate human, technical and financial resources, increasing its visibility and effectiveness and strengthening its capacity;**

(b) **Establish a comprehensive national mechanism, within the executive branch, to coordinate policies and measures to prevent and combat violence against women;**

(c) **Provide adequate funding for the work of the Public Defender's Office to enable it to fulfil its mandate, especially with respect to its work on violence against women;**

(d) **Increase cooperation with and the support provided to non-governmental organizations working on violence against women;**

Collection of data and prevention of violence against women

102. **The Special Rapporteur recommends that the Government:**

(a) **Collect disaggregated data on all forms of violence against women;**

(b) **Conduct regular population-based surveys to assess the prevalence of, and trends relating to, different forms of violence against women;**

(c) Establish a "femicide watch" or "gender-related killing of women watch", collect and publish annually data on the number of femicides and establish a new body (or entrust an existing body) to analyse each case of femicide to identify protection failures, with a view to improving and developing further preventive measures;

(d) Collect and analyse data on suicides among women victims of violence;

(e) Ensure that all child marriages are registered, and collect data, disaggregated by sex and age, on all marriages involving at least one minor partner, including on those with and without the authorization of the courts;

(f) Strictly enforce the criminal law provision banning forced marriages, and collect data on prosecution rates;

(g) Develop a joint strategy to raise awareness among parents, teachers and law enforcement agencies on the issues of forced marriage and existing legislative regulations relating thereto, in particular in rural areas;

(h) Adopt measures to prevent sex-selective abortions and ensure the regular publication of birth registration data, disaggregated by sex and region, with a view to identifying the reasons behind these abortions and raising public awareness of the negative long-term effects of such practices.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on violence against women, its causes and consequences: comments by the State

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Sudan.

GE.16-06056(E)

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Report of the Special Rapporteur on violence against women, its causes and consequences to Sudan: comments by the State*

Comments on the Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, on her mission to Sudan (from 13 to 24 May 2015)

1. At the outset the Government of the Republic of the Sudan would like to thank the former Special Rapporteur on Violence Against Women (SR-VAW) Ms. Rashida Manjoo for accepting the invitation of the Government to conduct a visit to the country, and has the honour to provide its comments and some necessary corrections as follows:

2. Sudan respects the views expressed by the Special Rapporteur on Violence Against Women, its Causes and Consequences in her Report based on her understanding developed during the visit. Sudan also acknowledges the independence that a Special Rapporteur ought to exercise while presenting the conclusions and findings of the country visit report.

3. Sudan is constrained to make certain clarifications and reservations on the report of the former Special Rapporteur on her country visit to the Sudan as there are some factual mistakes in addition to many instances in the report lead to the conclusion that the report lacks full objectivity and exhibits a tendency to portrait an image that does not reflect the realities around issues at hand. It is rather difficult to comprehend the reasons for the former Special Rapporteur, who has taken rather a simplistic approach while drawing conclusions, and thereafter present them as her findings. The proclivity for making unsubstantiated yet sweeping generalizations is very high in the report, which tends to point to either a lack of understanding of issues or a high degree of prejudice playing a predominant role while arriving at such conclusions.

4. Regarding the programme of the visit and the meetings with Government officials as referred to in Paragraph 2, we would like to clarify that meetings were held with the State Minister of guidance and Endowment, the under-secretary at the ministry of Justice and the deputy Chief of Justice together with five of supreme court Judges. The SR-VAW met also the Prosecutor General for Darfur Special Court in El-fashir. A University talk on Human Rights Special Procedures mechanisms focusing on the mandate of the SR- VAW was organized by Human Rights Centre of the University of Khartoum and the Unit on Combating Violence Against Women during the visit with the participation of students, representatives of related national institutions, UN agencies and NGOs.

5. In Paragraphs 4&5, the Government of the Sudan regrets that the report failed to recognize the support extended to the mission of the former Special Rapporteur during her visit to Sudan. The efforts of the state officials entrusted to provide every necessary support to the visit in compliance with the terms of reference as well as the code of conduct were surprisingly misinterpreted and referred to in the report as "lack of unfettered access". The understanding of the Government of the Sudan is that the former Special Rapporteur is visiting the country as a mandate holder on violence against women, it's causes and consequences and not in a mandate of policing and/or prosecuting. The Government of Sudan is honoured to stress its readiness to continue cooperating with the mandate of the Special Rapporteur on Violence Against Women.

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6. In paragraph 6 of the report, it is mentioned that the fear of reprisals by women rights activists and organizations resulted in many organizations choosing not to meet with the SR-VAW, as no specific cases were mentioned and a large number of representatives of women organizations tried to meet the SR in front of UNDP on Saturday, May 16th 2015 but not allowed in by the UNDP staff (because of procedural matters as they were told) this claim sounds strange and confusing. In Paragraphs 6 the report also highlighted an unfortunate incident that took place on Saturday16 May 2015, it has many complications that were not accurately reflected in the report. What happened is for security reason for protecting the hotel and the residents. One of the two students mentioned in the report came to the hotel where the SR-VAW was accommodated, was armed with a knife, the GoS security laws does not allow such an action for the security of the guests and other people in the hotel. When the armed student was questioned by the Hotel security one of the Special Rapporteur's assistants gave provided her UN-LP as a guarantee to let him get back the knife that he was holding .Quarrel occurred at the door of the hotel and the hotel administration filed a case against those who made this trouble in Khartoum North police office on the same day. The report mentioned that the SR continued to receive allegations about reprisals while non of the said reports were brought to the attention of the Government (till 28th, December 2015). A communication dated 28/12/2015 on the said incident and other allegations was received and will be addressed in due time.

7. Concerning Paragraph 7, the Government of the Sudan would like to stress the fact that the visiting special rapporteur was able to hold meetings and visit locations and institutions of interest as agreed in the program of the visit, to have discussions and gather information in compliance with the HRC resolutions 5/1 and 5/2 and other related documents. In addition, the visiting SR had enough time and full access to hold private meetings and visits, some private meetings are mentioned in the report in a way that contradicts the claim of being faced by lack of unfettered access. In many instances the report referred to information and claims told to the visiting SR-VAW during private meetings, this in itself provides a clear evidence that there were no restrictions imposed by the Government against the SR activities as agreed.

8. Paragraph 8 referred to allegations that claimed to happen after the end of the SR-VAW visit. The said newspapers were treated in accordance with the Press and Printing Information Law in specific legal procedures. The language used in the report regrettably seems to try to make sweeping generalizations based on "prevailing views" rather than founded researches and studies as expected.

9. Regarding the information in Paragraph 9 we would like to reiterate the fact that the Sudan inherited the conflict - in its southern part at that time- from the Colonization era. There was no civil war occurred in Sudan in 1976 and the conflict in South Sudan re-erupted in 1983 after one decade of peace and stability all over the country.

10. Regarding the negative impact of the UCMs, the SR-VAW was invited for a public forum on the issue but she was not able to attend due to other engagements in private meetings arranged for her by the UNCT at the same time. Many examples can be mentioned to clarify the negative impact of UCMs, for instance Sudan was unable to reach the MDG targets especially reducing maternal, infant and under five mortalities by 2015 due to financial constraints and unavailability of functioning equipment to save their lives due to lack of spare parts resulted from the unilateral sanction applied against the country by some states. Importing drugs and medications faces restrictions, mainly financial transactions that deprives the people of the Sudan, including women and children from having access to medical products particularly those come from high quality companies.

11. In paragraph 10 of the report an assessment for the implementation of Doha Document for Peace in Darfur DDPD was made. The base of the provided assessment is not clear, particularly in the light of the fact that this issue was not raised with a main

implementer – the Government- at any stage during the visit. In some instances the SR-VAW was invited to visit development and resettlement projects which were part of the implementation process but she was not able to go. Village of Thabit is a case in point. Describing the implementation of the DDPD as slow and not effective in the way occurred in the report is questionable and unsubstantiated.

12. In relation to paragraph 11 it is pertinent to mention that the National Interim Constitution 2005 includes a Bill of Rights that addresses basic Human Rights including those of women and children. Art (37) considers all Human Rights International instruments that the Sudan is party to, as part of the constitution of the Sudan. The ongoing National Inclusive Dialogue, called for by the President, started on the 10th of October one of the committees is the committee for rights and freedom for discussing the permanent constitution and one of the recommendation is to include the bill of right in the new Constitution and other rights and we expected the dialogue to lead to comprehensive peace and settlement in all parts of Sudan and accordingly will have our permanent constitution.

13. Paragraph 12 said that numbers of issues remained unsolved under the CPA and we want to explain that CPA has been implemented as planned and the pending issues is the agreement on border demarcation between the two countries and the four freedoms to be agreed upon. The Humanitarian Aid Commission, the body responsible for humanitarian assistance for IDPs, stated that the official estimation of IDPs numbers is as follows:

- The number of IDPs between January- April 2014 is **269.170** persons.
- The number of IDPs between January- May 2015 is **10.108** persons as due to tribal conflicts which was contained.

14. At the end of this paragraph (12) the SR report about security situation in Sudan including gender based violence GBV as a source of deep concern without mentioning any source for the information. We would like to stress that the last report of HAC reflect the improvement of the security situation in the IDPs camps. The Prosecutor of Darfur special court reported that there were no reports of GBVs filed from IDP camps by the time of this report. Many committees were developed and female police officers deployed to the IDP camps to enhance efforts of women protection, while CSOs are working on human rights awareness raising among women in the camps, as well as provision of support and training in micro finance projects projects in different sectors. The SR-VAW visited Darfur and North Kordofan and reported on South Kordofan, Blue Nile and Abyei, situations in those areas were not discussed specifically with the Government during the visit in a way that enables proper reporting.

15. The views expressed by the SR-VAW in paragraph 13 are contradicting the realities on the ground, it is true that there are many challenges and there is a long way to go in further enhancing the enjoyment of Sudanese women of their human rights, but imposing a conclusion indicates the existence of "pre-existing patterns of oppression and subordination" does not reflect a robust understanding for the context in Sudanese Society. It worth mentioning here that Sudanese women are among the pioneers in Africa in civil and political participation, leading business and participating in decision making; Women education in Sudan started in 1906, by Sheikh Babikir Badri who established the first school for girls in the city of Rufaa. Sudanese women were among the few in Africa since 1950's to enjoy voting rights in elections since the first free elections after independence. Sudanese women joined trade unions, schools and professional colleges in full freedom and complete integrity even prior to the independence and participated in the national struggle for independence through their well-known women movement that was established in 1940s. The Sudanese women stood for election in a free suffrage and won a seat in the parliament of 1968.

16. Women in the Sudan joined the judiciary as judges since the early 1970's, many senior female judges joined the Constitutional Court. Female judges also serve in the Supreme Court and other senior posts as Head of the Judicial Bureau. Sudanese women are currently holding ministers' posts at the Federal level and at states' level. In addition more than 30% of the members of the Parliament in the Sudan are women. Women in Sudan enjoy the right to equal pay for equal work, maternity leave, pension rights without discrimination and according to the same criteria applied on men.

17. Numerous policies, strategies, plans, programs, projects are adopted and being implemented by the entrusted mechanisms for women empowerment. The National Policy for Empowerment of Women adopted by the state in 2007 is one of the talking examples. It consists of six aspects (health, environment, education, economic empowerment, human rights and law, political participation and decision-making, peace and conflict resolution) deduced from Beijing Platform for Action (12) as a priority area for Sudan. The National policy aims at empowering women and to further protecting and promoting their rights, it refutes any doubts of oppression and subordination and inferiority. The main objectives of the National Policy for Empowerment of Women are to:

- Adopt the necessary policies that guarantee and provide preventive care and medical treatment for women and children at all age.
- Provide and enjoy complete educational system for women of all age and social categories, rural and urban in order to bridge the gap in education between women and men.
- Improve the living conditions of the poor women to empower them within the framework of the sustainable comprehensive development.
- Improve women performance and develop their capabilities.
- Enhance all civil rights for women. Those rights included in the constitution and in accordance with the ratified provisions of the regional and international conventions which support and empower women.
- Take necessary measures which guarantee women to accede to power, decision-making and leadership.
- Strengthen the efficiency of women in the issues of conflict resolution, consolidation of peace and dissemination of its culture.

18. In Paragraph (14) the report regrettably declares that "it was impossible for the Special Rapporteur to verify the true extent of the phenomenon of violence against women and girls due to a range of factors, such as the limitations regarding official data on violence against women". The issue of data collecting and analysing is one of the challenges that the Government work on. It also seeks technical support on this issue, as discussed with SR-VAW prior to and during the visit..

19. The Ministry of Interior usually issues an annual criminal report that provides data on different crimes took place during the respective year disaggregated by states, types of crimes, sex and the prevalence rate. The Criminal Report of 2014 was handed to the SR-VAW and her team to support the research, analysis and data collection on the situation of violence against women in the country. It includes information on types of SGBV e.g cases of rape, the report shows that total number in 2014 is 615 cases all over Sudan and the prevalence rates of such a crime shows that North Kordofan State is the highest (38 cases) followed by Khartoum State and white Nile state (70 cases each).Accordingly the Ministry of Welfare and Social security developed a committee to address these incidence of different types of crimes and developed mechanisms at the state level to reduce the prevalence rate.

20. The report touched on social stigma and cultural norms as obstacles causing underreporting as far as violence against women is concerned. It is a social challenge that the Government works on, units of protecting family and children were established to create conducive environment to encourage reporting through these unit to the police and access judiciary services. Other mechanisms were developed by the Government particularly in conflict affected areas. Training facilities were established in collaboration with civil society groups to work with women specially women in IDP camps to raise their awareness with regard to their rights enshrined in the Interim National Constitution 2005 and national laws to encourage them to exercise their right to seek the legal assistance, psychosocial support and medical services.

Paragraphs 16, 17, 18

21. The SR-VAW mentioned that the domestic violence is "widespread and pervasive" with lack of access to the services and justice institutions. It is important to clarify that domestic violence exists in Sudan but no records or studies support describing it as "widespread and pervasive". Victims have the right to file their claims according to the Law, they have the right to remedy according to article 162 of the personal status law for 1991 where the victim might file for divorce before respective courts throughout Sudan. If the victim does not wish to resort to the justice institutions there are other patterns of reconciliation available and widely considered and respected by the community and the native administration system. The report jumped to another ill founded generalization that "Seeking redress from the police and the courts, including seeking a divorce was an exercise in futility for most women". This dose not give a positive sign as far as objectivity and credibility is concerned.

Paragraphs 19,20

22. Rape is a crime that unfortunately takes place worldwide and the perpetrators are usually prosecuted in conformity with the respective law in the normal circumstances while punishments more tightened in cases of emergency (wars and conflicts). The Penal Code of 1991 was amended in 2009 by adding the articles concerning the war crimes, crimes against humanity and genocide. Article 149 was amended in 2015 a separate definition of rape crime was added , while a separate Article (151) that defines sexual harassment was added.

23. The Armed Forces law 2007 emphasized the penalty for rape to be more harsh in case of committing rape during the conflicts. It has further identified the mechanisms that enable victims to request support through the investigation offices, the prosecution offices and courts throughout the Sudan.

.24 Units for combating violence against women and children at the state level where established, their main function is victim support including to help in access to justice and services. The Minister of Justice issued circulars no. (1) and no.(2) since 2004 that gave those victims the right to have access to medical services without the need for filling form no.(8){form (8) is necessary to give details on incidents caused injury for any victim in medical service institutions} . The law gives woman the right to file a case before the court five years after the crime is committed (General prosecutor's circular no. 7). These measurements together with the training of the policewomen in criminal investigation to facilitate gathering of information and encourage victims to have access to justice.

Paragraph 21

25. The paragraph tackles the "marital rape" which is not yet recognized or criminalized in the Penal Code. The term "marital rape" is neither agreed upon nor adopted in any international document. It is also not defined or recognized by the Sudanese legal system, but women always have the right to access to justice to report any kind of domestic

violence. Personal Status law articles 91,95 regulate the marriage relationship. Causing harm to wife is criminalized by articles 142-139 of the Penal Code 1991, accordingly the affected wife has the right to seek divorce (article 162 of the personal law 1991).

Paragraph 22

26. Concerning the visit to the village of Thabit in Northern Darfur, it is important to clarify facts around some points mentioned in the report, as follows:

- The visit of SR-VAW coincided with an event organized by the youth union in the village as part of their summer activities (immunization campaign, health and cultural day).
- The village of Thabit has a resident garrison, as it has suffered in the past from violent activities of armed groups and after being liberated has been chosen to be one of the voluntary return villages. The presence of agents of Sudanese armed forces and some security agents is just normal and has no relation with the visit. They joined the public gathering to witness the youth event, they did not intervene in the activities of the SR-VAW visit unless answering questions of the SR-VAW and her team.
- The Women's Union representative made an effort to present the case of the women in the village to the SR-VAW, but no one in the village denied the right to talk to the SR in any way. She was invited to go into the houses of the village but she decided not to go. The report paid no attention to the public messages delivered to the SR-VAW by women in Thabit concerning the humiliation they feel because of the said allegations.

Paragraph 23

27. Investigation on allegations of rape in the village of Thabit was conducted by UNAMID and by the Prosecutor General for the Special Court of Darfur. Pillars of the crime of rape could not be detected by any party, no victims or any other evidence to indicate that the verbal allegations broadcasted by "Radio Dabanga" is true. It worth mentioning that Radio Dabanga is based in the European continent (the Netherlands).

Paragraph 24

.28 The Prosecutor General for the Special Court of Darfur explained that this claim has legally affected the women of Thabit since there are no reports filed. Therefore, it falls under the defamation articles at the national and international levels. While the previously mentioned information proves that it is absolute ungrounded allegation.

Paragraph 25

.29 Concerning allegations of rape in different areas (Northern and Western Darfur), the SR was informed of, prior to and during her visit, the SR-VAW did not raise that in here meetings with the Government officials or share any reports with the Government on specific cases at any stage in order to be investigated. Mere verbal allegations raised by politically motivated groups cannot be the right base for any reasonable action by the state or any other entity. The request to establish a commission of inquiry to investigate baseless allegations indicates the lack of scientific methodology and information analysis in this report.

Paragraph 26

30. The ongoing legal reform process includes Sudanese Personal status law- Article 40 on the age of marriage (not Article140 as mentioned in the report). In Sudan we agreed that the early marriage refer to child marriage. With regard to lack of data, this is not true. There is rather up to date information in the multiple indicator cluster survey and of the study of orientation, practices and knowledge implemented in six (6) states between 2012-2013 conducted by the National Council of Child Welfare and funded by the UNICEF. The first lady of Sudan launched the combating child marriage campaign as part of the regional campaign by the African Union and First Ladies Organization in Africa.

31. The national committee for Women legislations review, had revised the personal law and proposed amendments on article 40. On the other hand, article 5 of the child law included the principles of the best-interest of the children and believe that child marriage doesn't fall under their best interest.

32. The case mentioned in paragraph 27 could have access to all kind of health services as well as psycho-social services. According to article 135 of penal code, she has the right to abortion if the pregnancy was due to rape. A religious jurisprudence rule "there should be no harm nor malice" is applicable in such a case if presented to the respective authorities but this not seem to be the case. Based on religion teachings, CVAW carries on awareness raising campaigns (Mercy and compassion) through persuasive dialogue on the objectives of the Sharia law.

Paragraph 28

33. Female Genital Mutilation FGM practice is still high but there is a considerable decrease among the age group 0-14 years. Compared to the practice among this age group, we find that according to the health survey 2006, the practice was 43% while the family health survey in its second session 2010, the practice was 37%.The multi indications cluster survey 2014, the practice reduced to 31.5%. For the age group 15-49 years there is a decrease in comparison with the health survey 2006 from 69% in 2010 to 65.5% in the second session survey 2014.The methodology of the multi indication cluster survey 2014 has changed to cover the married women only, this is why the indicator read 86.6% which cannot be compared with the family health in its second sessions 2006 & 2010.

Paragraph 29

34. The issuance of the national legislation that convicts and prohibits the FGM practice was postponed to gain wider social agreement on eliminating FGM. Intensive awareness raising campaigns are running now. The law was afterwards deposited for adoption taking into consideration that a national act was drafted by a national committee.

Paragraphs 30, 31

35. The report mentioned that the number of women in the prison that SR-VAW visited is 818 accompanied by 130 children. This number of women exist in the prison according to the Law, they are sentenced with minor or major crimes. Some of them come from other states of Sudan where there are no women prisons. Many children live inside the prison accompanying their mothers, the decision usually made to serve the best interest of the child if the child has no one to take care of him/her outside the prison. Basic health and education services are provided to those children accompanying their mothers inside the prison.

36. Concerning the compensations that could keep some in prison, the government usually pays a lot of these compensations through Zakat fund and other sources. (e.g on January 15th, 2015 95 women accompanied by 23 children were released and on January

26, 2015 other 729 women were released, 109 children were accompanying their mothers went back to normal life).

37. The women prison in Omdurman has a clinic equipped by all necessary facilities including labour (delivery) rooms, labs, pharmacy, dentist room, treatment and small surgery rooms. The clinic has a well trained staff to take care of those in need. Consultants are available twice a week.HIV and cancer detections are made in the nearby well equipped specialized centres if need be.

Paragraph 32

38. The apprehended and detainees under the National Intelligence and Security service NISS are treated in accordance with the law. Article 51 of the National Security law 2010 stipulates the following:

- The person shall be notified when arrested and/or imprisoned for the different reasons.
- The apprehended and detainees have the right to inform their families or the entity they are affiliated to and their advocates, if this does not affect the interrogation and investigation process.
- The apprehended and dctainees are treated with respect to their dignity and shall not be mistreated or harmed physically or morally. Regulations arrange how to handle their belongings and messages.
- The apprehended and detainees have the right to have additional portion of food, clothes and cultural materials at their own expenses taking into consideration the security and order conditions.
- Women imprisoners shall not be held save in prison cells allocated for them, taking their delicate nature into account.
- In accordance with the regulations, apprehended and detainees' families are allowed to visit them.
- The apprehended and detainees have the right to accede medical care.
- The concerned prosecutor shall pay regular visits the prisoners' cells in order to ensure that all imprisoner or the prisoners guidelines are been abided by and to receive any complaints in this regard.
- Regulations identify the required conditions inside the prisoners' cells as well as all the procedures and issues that guarantee their dignity.
- The arrested persons have the right to go to court if they remain in the prison more than the period specified in article 50 of the law.

39. NISS keeps the imprisoned women in a place allocated for them in Omdurman women prison under guard and supervision. A private prosecutor appointed by the Minister of Justice carry on a regular searching process in this location receive complaints if any. NISS provide all necessary medical service where the specialized doctors regularly rotate and provide requirements for the apprehended and detainees. With regard to the conditions of the women in the list of ravel ban, we would like to clarify that this is done in accordance with the penal and immigration procedures and it is done by the concerned entities taking into account the sovereignty of state.

Paragraphs 33-34

40. No specific cases where shared with the Government to investigate.

.41 Multi-ethnic and cultural diversity in Sudan is considered as a source of power and inspiration to enact laws and legislations that protect women and enable them to enjoy their fundamental rights (enshrined in the Sudan interim constitution 2005 to support the principles of fairness, justice and entrench the achievements women as stated in Article 28 (equal pay for equal work).

42. Based on the nature of the work and the general rule of the Civil act public office is offered on the basis of merit without discrimination, article (59) in the list of the National Civil Act for the year 2007 on the equal right to promotion. Article (61) of the same regulation stipulates that the selection criteria and evaluation of the candidates on promotion on the basis of merit, and took into account the list of the regulation of the National Civil Service Act 2007.

Paragraph 35-39

43. The report discussed security during conflict in these paragraphs, this issue remains a serious concern of the Government. Security of IDP camp is addressed by Sudanese National Police and UNAMID in all the IDP camps in the five states of Darfur, and the situation is largely developed as a result of the continuous efforts in this area.

44. According to the office of the Prosecutor General of Darfur Special Court, there was no rape cases reported or claimed since November 2014. Any reported cases are properly delt with by the respective authorities.

45. Concerning Aboshock camp, the security situation is stable and challenges are addressed by the Police agents when they occur. The camp has a permanent clinic run by medical staff, doctors are available during the day.

Paragraph 40-43

46. In 2014, government of Sudan took significant steps in joining the global fight against human trafficking by acceding to the protocol to prevent, suppress and punish trafficking in persons in addition to its endorsement of the 2013-2014 joint strategy to address human trafficking, kidnappings and smuggling of persons. The strategy aimed at providing support to ensure the safe entry of asylum-seekers, their secure residence in refugee camps in Eastern Sudan and the protection and rehabilitation of identified victims of trafficking.

47. Sudan has also enacted the first federal law to combat trafficking in Sudan (Combating of Human Trafficking Act 2014) and established a National Committee to Combat Human Trafficking. It hosted also the first African union Regional Conference on Human Trafficking and Smuggling in the Horn of Africa and participated in the EU-Horn of Africa Migration Route initiative (Khartoum process) as a key member state in discussions on migration and mobility across the African and European countries

48. Efforts taken by the government in partnership with international organizations like UNHCR and IOM has impacted positively in significant reduction of incidents from 338 in 2012 to 113 in 2014. In 2014, over half of all reported incidents in 2014 had occurred in previous years. Continuous efforts have resulted in more decrease of smuggling among refugees in 2015. Only 33 cases have been reported. One of the challenges that has always been raised by the government is the issue of improving social services and living conditions of refugees in camps. Poverty is one of the pushing factors that have triggering internal movement of refugee, and thus exposing refugees, mainly women and girls to trafficking.

Paragraph 44

49. The Maputo protocol as annex to the African Charter for Human and People's Rights (women rights in Africa), is under process for ratification.

50. Convention on Elimination of Discrimination Against Women (CEDAW). Despite the fact that it doesn't include any articles on violence against women but stipulates a number of rights. Sudanese woman enjoy most of the rights set forth in the convention through the implementation of Beijing outcomes document and the Sudan policy of empowerment of women. According to presidential decree 140(for state reform program)all the conventions related to human rights will be studied and revised to determine the status of the Government towards them for further action including CEDAW.

Paragraph 46 – 53

51. These paragraphs reflect recommendations provided by many international mechanisms. Concerning the issues related to violence against women and women rights a national committee was established to revise all laws pertaining women and child rights, along the same line of the legal reform process that was launched as mentioned before.

52. IE on the situation of human rights in Sudan Dr. Mohamed Chande Osman in his report of 2011 acknowledged that the activities of CVAW units in Darfur present a successful experience that should be documented and copied in other conflict and post conflict areas.

Paragraph 78 – 80

53. The report gave a general assessment to the situation of women in the Sudan, including the role the SR-VAW sees for UNAMID. UNAMID role and exit strategy is being delt with by competent national and international bodies that take all related concerns and interests into consideration.

Paragraph 81

54. Giving an assessment in a specific and concrete words in this paragraph contradicts the declaration made in paragraph (24) of the same report, this regrettably indicates the lack of objectivity in the report that apparently relied on views focused on criticizing the Government of the Sudan rather that serving the cause of addressing the violence against women. it is useful to recall here that Sudan ratified the ICGLR protocol on suppression of sexual and gender based violence in 2008 and become part of the national law, the issue of domestication of such a protocol is part of the on going legal reform.

Paragraph 83

55. Article 149 of the criminal law mentioned rape as recognized by law, the article could be developed in the future if need be.

Paragraph 84

56. The supreme court's circulars are about interpretations in national laws, and there compatibility with the constitution. The picked examples in mentioned this paragraph discriminatively and without explaining the merits behind them cannot be acceptable in such a report. Islamic laws are the agreed choice to regulate the activities of the Sudanese society with full respect to the rights of non muslims that is catered for by the competent bodies.

Paragraph 85

57. This paragraph stated that "40" women are brought to the courts in Khartoum for infringements linked to public order law and they are often tried without the presence of a lawyer, and sentenced to prison sentences, fines or public lashing. It is important to give the reference of this peace of information which seems to be an inaccurate estimation. Allegations on targeting poor and vulnerable women also needs to be verified and attributed to reliable source.

Paragraph 86

58. The report gives kind of credibility to allegations by political opponents –as clearly stated- by mentioning them as part of the report without discussing their details with the Government. This methodology puts the credibility of the report into question and does not comply with the code of conduct of special mandate holders (HRC/ Res./5/2).

Paragraph 87

59. CVAW units at federal and state levels are specialized units with specific mandate of coordination and advocacy, while general directorate for women affairs are part of the executive authority and others mechanisms have their own mandate focusing on women empowerment.

Paragraph 88

60. HAC is the official body intrusted to execute policies and regulations regarding NGOs registration and activities in Sudan. The report presents distorted peace of information accusing HAC of harassing and deregistering NGOs and discriminating against Women NGOs again in a generalized way without reference.

Paragraph 89

61. To correct what was mentioned in the report it is important to reiterate the fact that the national strategy for combating violence against women was developed in collaboration and coordination with civil society organizations. The main axis in the strategy is sustainable development for combating harmful traditional practices to serve the best interest of women at all levels.

Paragraph 90

62. The issue of data collection poses a major challenge for the different bodies work in the field of human rights, efforts are exerted to address this issue by a data base project that allows having accurate reliable data. Survey researches are being conducted on violence against women in order to guide the activities of combating violence against women.

Paragraph 91

63. Generalization also appears heavily in this paragraph, without a deep comprehension to the Sudanese context it will be difficult to provide useful expert views to support the on-going effort in the state to promote and protect human rights in general and human rights in particular. (see paragraphs 15-18 above)

Paragraph 92

64. There seems to be a kind of misunderstanding of the position of the State in the Sudan, an absolute denial by the State as described in the report – if exists- would imply refusal of the SR-VAW mandate, and this visit could have not been conducted. There is a

strong political commitment towards combating violence against women. The declaration of the zero tolerance now campaign and sponsoring the campaign of 16 days of activism against VAW by the Presidency of the state are related examples.

Paragraph 93

65. Assessment made by the SR-VAW regarding the Justice system in the Sudan is unsubstantiated and totally rejected, it reflected a regrettable superficial manner that can never be acceptable in such a report. SR-VAW clearly exceeded her mandate, assessing and/or judging the justice system of any member state is beyond that mandate.

Paragraph 94

66. Another set of unsubstantiated conclusions is presented in this paragraph. Reaching such a conclusion without having enough data or making proper research again makes the objectivity and professionalism of this report questionable. This attitude of jumping to unsubstantiated conclusions is absolutely rejected by the government of the Sudan.

Paragraph 95

67. A closer look into the norms and traditions of the Sudanese society could have given the SR-VAW an explanation of what she heard and mentioned in this paragraph. It is true that reconciliation is the favourite way to address family problems – including occurrence of violence- but the aim is to maintain or create conducive conditions for the family. There is no official denial of the rights of a victim to peruse a legal case and seek remedy while the societal norms encourages pardoning and reconciliation as explained. Local leaders/ senior persons of the extended family may impose penalties on perpetrators and compensations for the victim.

Paragraph 96

68. It is known that 98% of the population in the Sudan after succession of the south are Muslims and Islamic law system is adopted in the country and Sharia is considered as a main source for the constitution.

Paragraph 97

69. Sudan adopt the WHO Protocol on Clinical Management OF Rape, which provided for post exposure kit that facilitates providing all health services to the victim. The SR-VAW evaluation of health professionals in this paragraph is baseless, all medical professionals working in the field are qualified personnel and got specialized training courses through WHO on Clinical management of rape cases.